

REMARKS

Claims 41, 46, 48-67, 69-72, 88, and 92-94 are now pending in the application. Applicants note with appreciation the Examiner's indication that all previous rejections of record have been overcome, and now request reconsideration of the application in view of the remarks that follow.

Supplemental Information Disclosure Statement

Applicants direct the Examiner's attention to the Information Disclosure Statement filed herewith. Applicants respectfully request that the Examiner consider the references cited and return an initialed copy of the Form SB/08 with the next Office Action or Notice of Allowance.

Double Patenting Rejection

Claims 41, 46, 48-67, 69-72, 88, and 92-94 stand rejected under the judicially-created doctrine of obviousness-type double patenting in view of certain claims of U.S. Patent No. 7,074,799.

While the Examiner has pointed to a compound ("the species in claim 9, col. 502, lines 6-8") of the '799 Patent as allegedly anticipating the formula of the present claims, Applicants contend that this appears to be incorrect (the cited compound would not fall within the formula of pending claim 41, or its dependent claims, because of the requirement, in present claim 41, that Z is N and Y is CR₁).

However, without agreeing with this rejection, in order to expedite prosecution and allowance of the present application, Applicants submit herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Applicants contend that the rejection has been obviated. Reconsideration and withdrawal of the rejection is proper and such action is requested.

CONCLUSION

For at least the reasons discussed above, this case is believed to be in condition for allowance. Early and favorable action is requested.

Applicants request any extension of time necessary. Although it is not believed that any fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fee be deemed necessary.

Should the Examiner consider that obstacles to allowance exist, the Examiner is invited to contact the undersigned.

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Respectfully submitted,

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